

## **REMARKS**

Reconsideration of the present application is respectfully requested.

Prior to this Response, Claims 1-8 were pending in the application. Claims 1, 3 and 6 have been cancelled herein, without prejudice, leaving Claims 2, 4-5 and 7-8 as currently pending in the application.

In the Office Action, the Examiner rejected the Claims as follows. Claim 4 was rejected under 35 U.S.C. §103(a) as being unpatentable over Japanese Patent Publication No. JP 403196745 A (Karaki) in view of Japanese Patent Publication No. JP 0200015232 A (Hibino) and Japanese Patent Publication No. JP 2000036853 A (Tsutsumi). Claim 7 was rejected under 35 U.S.C. §103(a) as being unpatentable over Karaki in view of U.S. Patent No. 5,404,582 (Demuro) and Tsutsumi. Claims 5 and 8 were rejected under 35 U.S.C. §103(a) as being unpatentable over Demuro in view of Karaki and Tsutsumi. Claim 2 was rejected under 35 U.S.C. §103(a) as being unpatentable over Japanese Patent Pub. No. JP 02000270048 A (Ishibashi) in view of Hibino and Tsutsumi.

Regarding the Examiner's rejection of independent Claim 4, the Examiner states that the combination of Karaki, Hibino, and Tsutsumi teach each and every limitation of Claim 4. After reviewing the cited references, Claim 4 has been amended, as set forth herein. Specifically, Karaki teaches when the absence of a called party is detected, gradually increasing a tone volume of a call tone for a prescribed time until a prescribed tone volume is reached. Moreover, Karaki teaches when the presence of a called party is detected, decreasing the tone volume of the call tone until a prescribed tone volume is reached. In other words, Karaki teaches increasing or decreasing the tone volume of a call tone. However, Karaki does not teach or suggest initial volume levels based on the called party's location. Rather, as stated above, Karaki merely teaches increasing or decreasing the tone volume of the call tone in the absence or presence of a user, respectively.

In contrast, amended Claim 4 includes the recitation of initially generating the alert sound in a normal level, if the human body is not detected adjacent to the receiver, and initially generating the alert sound in a low level which is lower than the normal level, if the human body is detected adjacent to the receiver, which is neither taught nor suggested by Karaki. Moreover, this deficiency is not cured by either Tsutsumi, which teaches multiplying an initial tone volume using a prescribed magnification factor, or Hibino, which teaches a tone controller. Accordingly, it is respectfully submitted that the rejection under 35 U.S.C. §103(a) of Claim 4 should be withdrawn.

Regarding the rejection of independent Claim 7, the Examiner states that the combination of Karaki, Demuro, and Tsutsumi teaches each and every limitation of Claim 7. After reviewing the cited references, Claim 7 has been amended, as set forth herein, to include similar recitations as those contained in Claim 4. Namely, amended Claim 7 includes the recitation of a controller for initially generating the alert sound in a normal level through control of said audio processing unit if the human body is not detected adjacent to the receiver, and initially generating the alert sound in a low level lower than the normal level through control of said audio processing unit if the human body is detected adjacent to the receiver, which is neither taught nor suggested by Karaki or Tsutsumi, which are discussed above with respect to the rejection of Claim 4, or Demuro, which discloses an aural annunciator circuit. Accordingly, it is respectfully submitted that the rejection under 35 U.S.C. §103(a) of Claim 7 should be withdrawn.

Regarding the rejection of independent Claim 5, the Examiner states that the combination of Demuro, Karaki, and Tsutsumi teaches each and every limitation of Claim 5. After reviewing the cited references, Claim 5 has been amended, as set forth herein. Specifically, Demuro teaches a receiver having an open and closed position. Karaki, as discussed above, teaches increasing or decreasing the tone volume of the call tone if a user is absent or present, respectively. Tsutsumi, as discussed above, teaches multiplying an initial tone volume using a prescribed magnification factor.

In contrast, amended Claim 5 includes the recitation of determining if the cover is open and thereafter determining whether the human body is adjacent to the receiver based on the results of the determination of whether the cover is open, when an incoming call is received, which is neither taught nor suggested by Demuro, Karaki or Tsutsumi or the combination thereof. Accordingly, it is respectfully submitted that the rejection under 35 U.S.C. §103(a) of Claim 5 should be withdrawn.

Regarding the rejection of independent Claim 8, Claim 8 has been amended, as set forth herein, to include similar recitations as contained in Claim 5. Accordingly, for at least the same reasons as set forth above with respect to the rejection of Claim 5, it is respectfully submitted that the rejection under 35 U.S.C. §103(a) of Claim 8 should be withdrawn.

Regarding the rejection of independent Claim 2, the Examiner states that combination of Ishibashi, Hibino, and Tsutsumi teaches each and every limitation of Claim 2. After reviewing the cited references, Claim 2 has been amended, as set forth herein. Specifically, Ishibashi teaches a ringer tone which is hard to hear for a specific time when a call is not desired. In other words, Ishibashi teaches a ringer volume control. Hibino teaches a portable communication terminal with a tone volume control. Tsutsumi, as discussed above, teaches multiplying an initial tone volume using a prescribed magnification factor.

In contrast, amended Claim 2 includes the recitation of determining whether a user is proximate to the portable telephone, and if it is determined that the user is proximate to the portable telephone, determining whether an alert sound adjusting mode is set when an incoming call is received, and generating the alert sound in a first level, if it is determined that the alert sound adjusting mode is not set, and generating the alert sound in a low level which is lower than the first level, if it is determined that the alert sound adjusting mode is set, which is neither taught nor suggested by Ishibashi, Hibino, or Tsutsumi, or the combination thereof. Accordingly, it is respectfully submitted that the rejection under 35 U.S.C. §103(a) of Claim 2 should be withdrawn.

Independent Claims 2, 4, 5, 7 and 8 are believed to be in condition for allowance.

Accordingly, all of the claims pending in the Application, namely, Claims 2, 4, 5, 7 and 8, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell", written over the typed name.

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